

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION - CINCINNATI

JEREMY X. GERALD, LAVELLE DUFF,	:	Case No. 1:20-cv-603
ADONTE CHERRY, and JERMAINE	:	
ADAMS, et al.,	:	Judge Matthew W. McFarland
	:	
Petitioners,	:	
	:	
v.	:	
	:	
WARDEN, LEBANON CORRECTIONAL	:	
INSTITUTION,	:	
	:	
Respondent.		

**ORDER OVERRULING OBJECTION (Doc. 6), ADOPTING REPORT AND
RECOMMENDATION (Doc. 4) AND SUPPLEMENTAL REPORT AND
RECOMMENDATION (Doc. 9), DENYING WITH PREJUDICE THE PETITION FOR
WRIT OF HABEAS CORPUS (Doc. 5) AS TO ALL PETITIONERS,
AND TERMINATING ACTION**

This case is before the Court upon the Report and Recommendation ("Report") (Doc. 4) and Supplemental Report and Recommendation ("Supplemental Report") (Doc. 9) entered by United States Magistrate Judge Karen L. Litkovitz. In the Report, Magistrate Judge Litkovitz recommended dismissal with prejudice of the petition for writ of habeas corpus brought by Petitioners Jeremy X. Gerald and LaVelle Duff. The Magistrate Judge did not consider the petition for writ of habeas corpus brought by Petitioners Adonte Cherry and Jermaine Adams because they had not paid their filing fees despite having the means to do so. Mr. Gerald filed an Objection (Doc. 6) to the Report, in which he argued that Petitioners should be able to bring their petition jointly

and that the 14-day period in which to file an objection was too short.

After Mr. Cherry and Mr. Adams paid their filing fees, Magistrate Judge Litkovitz entered the Supplemental Report. The Supplemental Report considered the merits of Mr. Cherry's and Mr. Adams's petitions, ultimately concluding with a recommendation that they too be dismissed with prejudice and that the entire action be terminated. All Petitioners thereafter moved for a 60-day extension of their deadline to file objections to the Supplemental Report and for the Court to order the Lebanon Correctional Institution to permit them access to the law library despite restrictions put in place to prevent the spread of the COVID-19 virus. The Court granted the 60-day extension of time to file objections but declined to order further relief. (Doc. 11.) The deadline to file objections passed on December 14, 2020 and, more than one month after that deadline, Petitioners still have not filed any objection. This matter is ripe for review.


As required by 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72(b), the Court has made a de novo review of the record in this case. Upon said review, the Court finds that Mr. Gerald's Objection (Doc. 6) is moot because the Magistrate Judge did not sever this action and the Court granted Petitioners an additional 60 days to file any objection to the Supplemental Report. The Objection is accordingly **OVERRULED**. The Court **ADOPTS** the Report and Supplemental Report in their entirety and rules as follows:

1. Petitioner Jermaine Adams's Motion for Leave to Proceed in Forma Pauperis (Doc. 3) is **DENIED** as moot.

2. The Petition for a Writ of Habeas Corpus (Doc. 5) is **DENIED WITH PREJUDICE** with respect to Petitioners Jeremy C. Gerald, Lavelle Duff, Adonte Cherry and Jermaine Adams.
3. A certificate of appealability shall not issue with respect to the Petition because none of the petitioners has stated a “viable claim of the denial of a constitutional right” or presented issues that are “adequate to deserve encouragement to proceed further.” See *Slack v. McDaniel*, 529 U.S. 473, 475 (2000) (citing *Barefoot v. Estelle*, 463 U.S. 880, 893 & n. 4 (1983)); see also 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).
4. With respect to any application by a petitioner to proceed on appeal *in forma pauperis*, the Court **CERTIFIES** pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of this Order would not be taken in “good faith,” and therefore **DENIES** any petitioner leave to appeal *in forma pauperis* upon a showing of financial necessity. See Fed. R. App. 24(a); *Kincade v. Sparkman*, 117 F.3d 949, 952 (6th Cir. 1997).
5. This action is hereby **DISMISSED** in its entirety and **TERMINATED** on the Court’s docket.

IT IS SO ORDERED.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO

By: 
JUDGE MATTHEW W. McFARLAND